

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY
UNDER 28 U.S.C. § 2254

Name Curtis Mitchell

Prison number W65770

Place of confinement Old Colony Correctional Center, 1 Administration Road,
Bridgewater, Ma 02324

United States District Court

District of Massachusetts

Case No.

(To be supplied by Clerk of U.S. District Court)

Curtis Mitchell, PETITIONER (Full name) v.

Timothy Hall, RESPONDENT (Name of Warden, Superintendent,
Jailor, or authorized person having custody of petitioner) and

THE ATTORNEY GENERAL OF THE STATE OF

Massachusetts, Thomas F. Reilly

1. Name and location of court which entered the judgment of conviction under attack New Bedford Superior Court
441 County Street, New Bedford, MA 02740
2. Date of judgment of conviction December 18, 1998
3. Length of sentence Life
4. Nature of offense involved (all counts) (1) Murder 1; (2) Murder 1
5. What was your plea? (Check one)
 - (a) Not guilty ☒ [X]
 - (b) Guilty ☐ []
 - (c) Nolo contendere ☐ []
 If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____
6. Kind of trial: (Check one)
 - (a) Jury ☒ [X]
 - (b) Judge only ☐ []
7. Did you testify at the trial?
Yes ☒ [X] No ☐ []
8. Did you appeal from the judgment of conviction?
Yes ☒ [X] No ☐ []
9. If you did appeal, answer the following:
 - (a) Name of court Massachusetts Supreme Judicial Court
 - (b) Result affirmed
 - (c) Date of result January 24, 2003
10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?
Yes ☒ [X] No ☐ []
11. If your answer to 10 was "yes," give the following information:
 - (a)
 - (1) Name of court New Bedford Superior Court
 - (2) Nature of proceeding Motion for New Trial
 - (3) Grounds raised Denial of right to counsel (2 claims)
 - (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ [] No ☒ [X]
 - (5) Result Denied
 - (6) Date of result December 18, 2000
 - (b) As to any second petition, application or motion give the same information:
 - (1) Name of court United States Supreme Court
 - (2) Nature of proceeding Petition for Writ of Certiorari
 - (3) Grounds raised Denial of right to counsel
 - (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ [] No ☒ [X]
 - (5) Result Denied
 - (6) Date of result June 2, 2003
 - (c) As to any third petition, application or motion, give the same information:

- (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- _____
- _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐
- (5) Result _____
- (6) Date of result _____
- (d) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?
- | | | |
|---------------------------|---|-----------------------------|
| (1) First petition, etc. | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (2) Second petition, etc. | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (3) Third petition, etc. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
- (e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: _____

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

- A. Ground one: Denial of effective assistance of counsel.

Supporting FACTS (tell your story briefly without citing cases or law): Based on trial counsel's mere suspicion that the petitioner intended to commit perjury, petitioner's trial counsel refrained from assisting the petitioner during the petitioner's direct examination and further refrained from arguing the petitioner's testimony in closing argument.

- B. Ground two: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

- C. Ground three: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

- D. Ground four: _____

Supporting FACTS (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea J. Drew Segadelli

536 Main Street, Falmouth, Ma 02540

(c) At trial Francis M. O'Boy

41 Harrison Street, Taunton, MA 02780

(d) At sentencing _____

(e) On appeal Ruth Greenberg

505 Paradise Road, # 166, Swampscott, MA 01907

(f) In any post-conviction proceeding _____

 same as (e)

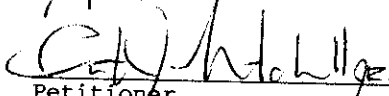
- (g) On appeal from any adverse ruling in a post-conviction proceeding
 same as (e)

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
 Yes ☒ No ☐
17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
 Yes ☒ No ☐
- (a) If so, give name and location of court which imposed sentence to be served in the future: NEW BEDFORD SUPERIOR COURT
441 COUNTY STREET, NEW BEDFORD, MA 02740
- (b) And give date and length of sentence to be served in the future: (1) ONE YEAR TO (1) ONE YEAR AND (1) ONE DAY
- (c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
 Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.


 Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on 3/1/04. (date)


 Petitioner